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By Teresa Bishop on Oct 06, 2009

UNITED STATES
JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION

Oct 06, 2009

FILED
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JUDICIAL PANEL ON
MULTIDISTRICT LITIGATIONUNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

09-4817

IN RE: CERTAINTEED CORP. ROOFING SHINGLE
PRODUCTS LIABILITY LITIGATIONBoard of Directors of the Lake Katherine Townhouse
Association, Inc. v. CertainTeed Corp.,
N.D. Illinois, C.A. No. 1:09-3535

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MDL No. 1817

FILED

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MICHAEL E. KUNZ, Clerk
Dep. Clerk
By

Before the entire Panel: Plaintiff in this Northern District of Illinois action moves, pursuant to Rule 7.4, R.P.J.P.M.L., 199 F.R.D. 425, 435-36 (2001), to vacate our order conditionally transferring the action to the Northern District of Illinois for inclusion in MDL No. 1817. Defendant CertainTeed Corp. (CertainTeed) opposes the motion.

After considering all argument of counsel, we find that this action involves common questions of fact with the actions in this litigation previously transferred to the Eastern District of Pennsylvania, and that transfer of this action to the Eastern District of Pennsylvania for inclusion in MDL No. 1817 will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation. We further find that transfer of this action is appropriate for reasons that we set out in our original order directing centralization in this docket. In that order, we held that the Eastern District of Pennsylvania was a proper Section 1407 forum for actions brought on behalf of owners of buildings with allegedly defective roofing shingles manufactured, warranted, and distributed by CertainTeed. See *In re CertainTeed Corp. Roofing Shingle Products Liability Litigation*, 474 F.Supp.2d 1357 (J.P.M.L. 2007).

Plaintiff argues against transfer that, *inter alia*, this action involves claims of an individual nature. We find, however, that the action shares questions of fact with the actions already pending in MDL No. 1817. The lack of class claims and some unique factual issues do not alter this conclusion. The factual questions at the heart of the plaintiff's claims relate to its allegations that CertainTeed roofing shingles prematurely failed and were therefore defective; this is the same factual issue at the core of the proceedings in MDL No. 1817.

IT IS THEREFORE ORDERED that, pursuant to 28 U.S.C. § 1407, this action is transferred to the Eastern District of Pennsylvania and, with the consent of that court, assigned to the Honorable Louis H. Pollak for inclusion in the coordinated or consolidated pretrial proceedings occurring there in this docket.